

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

SUPERIOR FARMING COMPANY, INC.,	)	
Respondent,	)	Case No. 77-CE-33-1-D
and	)	
UNITED FARM WORKERS OF	)	6 ALRB No. 21
AMERICA, AFL-CIO,	)	(3 ALRB No. 35)
Charging Party.	)	(4 ALRB No. 44)
	)	

SUPPLEMENTARY DECISION AND ORDER

On April 26, 1977, this Board certified the United Farm Workers of America, AFL-CIO (UFW) as the collective bargaining representative of the agricultural employees of Superior Farming Company, Inc. (Respondent). Superior Farming Company, 3 ALRB No. 35 (1977). Respondent thereafter notified the UFW that it would not meet and bargain about its employees' wages, hours and working conditions because it desired to obtain judicial review of the Board's decision to certify the UFW as the representative of its employees. Dessert Seed Co. v. Brown, et al., 96 Cal. App. 3d 69 (1979); Nishikawa Farms, Inc. v. Mahony, et al., 66 Cal. App. 3d 781 (1977).

After a hearing on the matter, this Board concluded that Respondent had violated Labor Code Section 1153 (e) and (a) by its failure and refusal to bargain in good faith and ordered Respondent, inter alia, to make whole its employees for any economic losses they incurred as a result of Respondent's unfair labor practice. Superior Farming Company, Inc., 4 ALRB No. 44 (1978). Pursuant to

Labor Code Section 1160.8, Respondent sought review of the Board's Order in the Court of Appeal for the Fifth Appellate District. After the Board filed the record with the Court of Appeal, it was discovered that certain evidence had been omitted inadvertently from the Board's initial consideration of the case. All parties requested the Court of Appeal to remand the case to the Board for further proceedings. The Court of Appeal ordered the case remanded on March 31, 1980.

In accordance with the remand order, we have reviewed, and reconsidered our Decision and Order in light of the previously omitted evidence, and have decided that the representation election conducted among Respondent's agricultural employees must be set aside because the ballot box was left unattended in the midst of a chaotic episode during the balloting. In those circumstances, there was a reasonable probability that the integrity of the ballot box was not maintained. Cf. Peoples Drug Stores, Inc., 202 NLRB 1145, 82 LRRM 1763 (1973). Accordingly, we shall set the election aside, revoke the certification, vacate our prior Order, and dismiss the complaint.

#### ORDER

The Agricultural Labor Relations Board hereby orders: that the election in Case No. 75-RC-2-F be, and it hereby is, set aside; that the certification of the UFW heretofore issued in 3 ALRB No. 35 (1977) be, and it hereby is, revoked; that the Order heretofore issued in Case No. 77-CE-33-1-D (4 ALRB No. 44) be, and it hereby is, vacated; and that, pursuant to Labor Code Section 1160.3, the complaint in Case No. 77-CE-33-1-D

(4 ALRB No. 44 C1978)) be, and it hereby is, dismissed in its entirety.

Dated: April 28, 1980

GERALD A. BROWN, Chairman

RONALD L. RDIZ, Member

HERBERT A. PERRY, Member

JOHN P. McCarthy, Member

RALPH FAUST, Member

## CASE SUMMARY

Superior Farming Company, Inc.  
(UFW)

6 ALRB No. 21  
(3 ALRB No. 35)  
(4 ALRB No. 44)  
Case No. 77-CE-33-1-D

The Court of Appeal remanded the Board's Decision in Superior Farming Company, Inc., 4 ALRB No. 44 (1978), for further proceedings in light of evidence which had been omitted inadvertently from the Board's prior consideration. Upon consideration of the said evidence, the Board decided to set aside the election because the ballot box was left unattended in the midst of a chaotic episode during the balloting and there was a reasonable probability that the integrity of the ballot box was not maintained.

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This Case Summary is furnished for information only and is not an official statement of the case, or of the ALRB.

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